



NEWS

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SUMMARY OF CASES ACCEPTED DURING THE WEEK OF FEBRUARY 17, 2003

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-25 Bell on Habeas Corpus, S105569. Original proceeding. In this case, which is related to the automatic appeal in People v. Bell (1989) 49 Cal.3d 502, the court issued an order to show cause limited to the following claims: Is petitioner entitled to relief on the grounds that he is actually innocent and that the prosecution introduced false testimony at the trial?

#03-26 Graham v. DaimlerChrysler Corp., S112862. (B152928; unpublished opinion; Los Angeles County Superior Court; BC 21564.) Petition for review after the Court of Appeal affirmed an order awarding attorneys' fees in a civil action. This case includes the following issue: Should California reconsider the propriety of awarding attorneys' fees under the California private attorney general statute (Code Civ. Proc. § 1021.5) to a party who did not receive a favorable judgment but whose lawsuit was the "catalyst" inducing the other party to modify its behavior, in light of the United States Supreme Court's recent disapproval of that theory in interpreting certain federal attorneys' fees statutes in Buckhannon Board & Care Home, Inc. v. West Virginia Dept. of Health and Human Resources (2001) 532 U.S. 598?

#03-27 Lewis Jorge Construction Management, Inc. v. Pomona Unified School Dist., S112624. (B143162; unpublished opinion; Los Angeles County Superior Court;

(over)

KC 023186.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Are lost profits allegedly attributable to impaired bonding capacity caused by a pending contract dispute recoverable as general damages in an action for breach of that contract? (2) If so, is evidence of past profitability sufficient to support an award of such damages or is more specific proof required that plaintiff would have succeeded in securing specific projects with reasonable bids that would have generated a profit?

#03-28 People v. Taylor, S112443. (A095412; 103 Cal.App.4th 1275; Mendocino County Superior Court; SCUK-CRCR-00-37366-02.) Petition for review after the Court of Appeal affirmed in part and reversed in part a judgment of conviction of criminal offenses. The court limited review to the following issue: Must a defendant know that a woman is pregnant before the defendant can be convicted of the implied malice murder of her fetus, or may such a conviction be based simply on the defendant's conscious disregard of the risk his or her conduct poses to human life in general, at least in the context of a mother and her unborn child?

#03-29 People v. Palomino, S112904. (F039025; unpublished opinion; Tulare County Superior Court; 00-63590.) Petition for review after the Court of Appeal remanded for resentencing and otherwise affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in Robert L. v. Superior Court, S100359 (#01-144), which presents the following issue: Does Penal Code section 186.22, subdivision (d), as amended by the Gang Violence and Juvenile Crime Prevention Initiative (Prop. 21, Primary Elec. (Mar. 7, 2000)), apply to any misdemeanor and any felony committed for the benefit of a criminal street gang, or only to those crimes expressly punishable either as a felony or as a misdemeanor?

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